

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

ADJILE, INC.,  
STANLEY WOJCIECHOWSKI,  
HERSHEY WOJCIECHOWSKI,  
READWAY, INC., TRUSTEE,  
WALTER LOWICKI, TRUSTEE OF  
WALTER LOWICKI REVOCABLE  
TRUST, JANEVE CO., INC.

Plaintiffs in Error/ Petitioners/  
Appellants Below

v.

C.A. No. 09A-05-004 WCC

CITY OF WILMINGTON, a Municipal  
Corporation under the laws of the State of  
Delaware, DEPARTMENT OF LICENSES  
AND INSPECTION, JEFFREY J.  
STARKEY, Commissioner, BOARD OF  
LICENSE AND INSPECTION REVIEW,  
DONALD L. GOUGE, JR.,  
MAMIE BAYNARD,  
G. JERRY VELAZQUEZ,  
JOANN WOODRING,  
BOARD MEMBERS

Defendants in Error/ Respondents/  
Appellees Below.

Submitted: April 19, 2010  
Decided: May 28, 2010

**ORDER**

**Appellant's Motion for Reargument - DENIED.**

Stanley C. Lowicki, Esquire, 830 West Street, Wilmington, Delaware 19801.  
Attorney for Plaintiffs in Error/Petitioners/Appellants.

Brenda James-Roberts, Senior First Assistant City Solicitor, Louis L. Redding  
City/County Building, 800 N. French St. 9<sup>th</sup> Floor, Wilmington, Delaware 19801.  
Attorney for Defendants in Error/Respondents/Appellees.

**CARPENTER, J.**

1. Before the Court is the Appellants' Motion for Reargument of this Court's March 31, 2010 decision denying Appellants' appeal by writ of certiorari from the Board of License and Inspection Review (the "Board").

2. In November 2008, the Department of Licenses and Inspections (the "Department") issued vacant building registration assessment fees to Appellants as owners of several properties located in the City of Wilmington. The Department found the properties to be vacant for a number of years with a total assessment sum of \$44,000. Subsequently, Appellants appealed and submitted a request for waiver of the assessment fees, which the Commissioner of Licenses and Inspections denied on January 14, 2009. Appellants subsequently appealed that denial to the Board on March 30, 2009.

After a hearing the Board denied the Appellants' application and Appellants appealed the Board's decision via a writ of certiorari to the Superior Court. The City of Wilmington filed a Motion to Dismiss under Rule 12(b)(6), arguing that the doctrines of res judicata and collateral estoppel bar the appeal. In its March 31, 2010 decision, this Court granted in part and denied in part the Appellees' Motion to Dismiss, and the Court denied all other issues in the Appellants' writ of certiorari.

Appellants then filed this Motion for Reargument on April 12, 2010. The Appellees responded on April 19, 2010.

3. Pursuant to Superior Court Civil Rule 59(e), “[a] motion for reargument shall be served and filed within 5 days after the filing of the Court’s opinion or decision,” holidays and weekends are excluded in this counting<sup>1</sup>.

4. Here, this Court’s decision was filed on March 31, 2010. Therefore, excluding the Good Friday holiday and intermediate weekend, Appellants’ Motion for Reargument would be timely only if filed by April 8, 2010. Appellants’ filed their motion on April 12, 2010, two days after the Rule 59(e) deadline.

5. Appellants argue that their motion is timely pursuant to Superior Court Civil Rule 6(e) which provides an additional 3 days to file a motion if the Court’s decision was transmitted by U.S. mail.<sup>2</sup> Unfortunately, Rule 6(e) does not apply because it is well-settled law that the five-day reargument period cannot be expanded under this rule.<sup>3</sup> Because Appellants’ Motion for Reargument was filed two days after the deadline, it is untimely, and the Court must deny the motion.

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<sup>1</sup> See Super. Ct. Civ. R. 6(a).

<sup>2</sup> Super. Ct. Civ. R. 6(e) provides: “[w]henver a party has a right to or is required to do some act or take some proceeding within a prescribed period after being served and service is by mail, 3 days shall be added to the prescribed period.”

<sup>3</sup> See *McDaniel v. DaimlerChrysler Corp.*, 860 A.2d 321, 323 (Del. 2004); *Kern Co., Inc. v. Town of Dewey Beach*, 1994 WL 146729, at \*1 (Del. Super. Mar. 15, 1994).

6. For the foregoing reasons, Appellants' Motion for Reargument is  
DENIED.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.

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Judge William C. Carpenter, Jr.